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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/002,123      | 12/05/2001  | Yoshio Shimizu       | 0033-0777P          | 2107             |

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EXAMINER

RIDLEY, RICHARD

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3651

DATE MAILED: 03/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/002,123

Applicant(s)

SHIMIZU, YOSHIO

Examiner

Richard Ridley

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 13-15 is/are allowed.
- 6) ☒ Claim(s) 5-11 and 16-18 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3, 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "disposal means" of claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5, 17, 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "the kitchen". There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "the each...plate". There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "each plate". There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "the time period". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 5, 6, 7, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Nobuo et al. (JP 410234553A). Nobuo discloses a similar system comprising a(n):

- Detection means (abstract line 5 & 6) for detecting an identifier (22) distributed together with sushi
- Recorder or determination means (abstract/L7-9) for determining a kind of sushi arranged on said plate, based on the identifier detected by said detection means (kinds and pieces are counted)
- Storage means (determination results are kept and stored in order to do a price calculation, abstract/L9)

5. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Yuichi (JP 06314285). Yuichi discloses a similar system comprising a(n):

- Allocating means (barcodes are placed on plates)
- Recorder for recording, for each plate, the time elapsed from a first detection of the sushi plate by sensor (abstract)

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 9, 10, 11, 16 and claim 18, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nobuo et al. (JP 410234553A) in view of Yuichi (JP 06314285A).

Nobuo et al. discloses all of the claim limitations, as shown above, but does not disclose a storage means for storing a time period elapsed after preparation of a product, to be associated with said information for identifying a plate.

Yuichi teaches the use of a storage means for storing a time period elapsed after preparation of a product (constitution) for the purpose of rapidly and correctly recognizing the salable and unsaleable aptitude of a commodity that is circularly carried on a belt (abstract), thus preventing the sale of food that has been circulating too long and may have spoiled.

It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided a storage means for storing a time period elapsed after preparation of a product, as

taught by Yuichi, in the device of Nobuo et al. for the purpose of rapidly and correctly recognizing the salable and unsaleable aptitude of a commodity that is circularly carried on a belt, thus preventing the sale of food that has been circulating too long and may have spoiled.

Regarding claim 10, Yuichi discloses a disposal means (37) for disposing of product when a predetermined time has elapsed after preparation of a product.

Regarding claims 11 & 18, it would have been obvious to one having ordinary skill in the art to have changed the predetermined time depending on a kind of a product since different food products spoil at different rates.

#### ***Allowable Subject Matter***

8. Claims 1-3, 13-15 are allowed over the prior art of record.
9. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Ridley whose telephone number is (703) 306-5910. The examiner can normally be reached on Mon-Thur 7:00 am - 5:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (703) 308-1113. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 308-0552 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, appearing to read 'Richard Ridley', is positioned above the printed name and date.

Richard Ridley  
March 14, 2003

Richard Ridley  
Examiner  
Art Unit 3651